

Senate File 376 - Introduced

SENATE FILE _____
BY ANGELO

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the transferability of investment tax credits
2 for an eligible business that is a biodiesel project located
3 in an enterprise zone.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2326XS 82
6 tm/gg/14

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1 1 Section 1. Section 15E.196, subsection 3, Code 2007, is
1 2 amended to read as follows:
1 3 3. a. Investment tax credit of up to ten percent, as
1 4 provided in section 15.333.
1 5 b. If an eligible business is a biodiesel project located
1 6 in an enterprise zone and the eligible business is eligible to
1 7 receive a tax credit under this subsection, the department of
1 8 economic development shall issue a tax credit certificate to
1 9 the eligible business. A tax credit under this subsection is
1 10 transferable if the eligible business is a biodiesel project
1 11 located in an enterprise zone and if the requirements of this
1 12 paragraph are met. An eligible business or the designated
1 13 partner if the business is a partnership, designated
1 14 shareholder if the business is an S corporation, or designated
1 15 member if the business is a limited liability company, or
1 16 transferee shall not claim the tax credit unless a tax credit
1 17 certificate is attached to the taxpayer's return for the tax
1 18 year for which the tax credit is claimed. The tax credit
1 19 certificate shall contain the taxpayer's name, address, tax
1 20 identification number, the amount of the tax credit, and other
1 21 information required by the department of revenue. Not more
1 22 than three million dollars worth of tax credits for biodiesel
1 23 projects shall be approved by the department of economic
1 24 development for transfer in one calendar year. The department
1 25 may approve an application for tax credit certificates for
1 26 transfer from an eligible business that is a biodiesel project
1 27 that would result in the issuance of more than three million
1 28 dollars of tax credit certificates for transfer, provided the
1 29 department, through negotiation with the eligible business,
1 30 allocates those tax credit certificates for transfer over more
1 31 than one calendar year. The department shall not approve more
1 32 than one million five hundred thousand dollars in tax credit
1 33 certificates for transfer from any one eligible business that
1 34 is a biodiesel project in a calendar year. If three million
1 35 dollars in tax credit certificates for transfer have not been
2 1 issued at the end of a calendar year, the remaining tax credit
2 2 certificates for transfer may be issued in advance to an
2 3 eligible business scheduled to receive a tax credit
2 4 certificate for transfer in a later calendar year. Any time
2 5 the department approves a tax credit certificate for transfer
2 6 which has not been allocated at the end of a calendar year,
2 7 the department may prorate the remaining certificates to more
2 8 than one eligible applicant. If the entire three million
2 9 dollars of tax credit certificates for transfer is not issued
2 10 in a given calendar year, the remaining amount may be carried
2 11 over to a succeeding calendar year. Tax credit certificates
2 12 issued under this chapter may be transferred to any person or
2 13 entity. The department of economic development shall notify
2 14 the department of revenue of the tax credit certificates which
2 15 have been approved for transfer. Within ninety days of
2 16 transfer, the transferee must submit the transferred tax
2 17 credit certificate to the department of revenue along with a
2 18 statement containing the transferee's name, tax identification
2 19 number, and address, and the denomination that each

2 20 replacement tax credit certificate is to carry and any other
2 21 information required by the department of revenue. Within
2 22 thirty days of receiving the transferred tax credit
2 23 certificate and the transferee's statement, the department of
2 24 revenue shall issue one or more replacement tax credit
2 25 certificates to the transferee. Each replacement certificate
2 26 must contain the information required to receive the original
2 27 certificate and must have the same expiration date that
2 28 appeared in the transferred tax credit certificate. Tax
2 29 credit certificate amounts of less than the minimum amount
2 30 established by rule of the department of economic development
2 31 shall not be transferable. A tax credit shall not be claimed
2 32 by a transferee until a replacement tax credit certificate
2 33 identifying the transferee as the proper holder has been
2 34 issued. The transferee may use the amount of the tax credit
2 35 transferred against the taxes imposed under chapter 422,
3 1 divisions II, III, and V, and chapter 432 for any tax year the
3 2 original transferor could have claimed the tax credit. Any
3 3 consideration received for the transfer of the tax credit
3 4 shall not be included as income under chapter 422, divisions
3 5 II, III, and V. Any consideration paid for the transfer of
3 6 the tax credit shall not be deducted from income under chapter
3 7 422, divisions II, III, and V.

3 8 EXPLANATION

3 9 This bill relates to the transferability of investment tax
3 10 credits for an eligible business that is a biodiesel project
3 11 located in an enterprise zone.
3 12 The bill provides that if an eligible business is a
3 13 biodiesel project located in an enterprise zone and the
3 14 eligible business is eligible to receive an investment tax
3 15 credit under the enterprise zone program, the department of
3 16 economic development shall issue a tax credit certificate to
3 17 the eligible business. Such a tax credit is transferable if
3 18 the eligible business is a biodiesel project located in an
3 19 enterprise zone and if certain requirements and limitations
3 20 are met. The bill provides that not more than \$3 million
3 21 worth of tax credits for biodiesel projects shall be
3 22 transferred in one calendar year. The bill allows the
3 23 department to approve an application for tax credit
3 24 certificates for transfer from an eligible business that is a
3 25 biodiesel project that would result in the issuance of more
3 26 than \$3 million of tax credit certificates for transfer,
3 27 provided the department, through negotiation with the eligible
3 28 business, allocates those tax credit certificates for transfer
3 29 over more than one calendar year. The bill prohibits the
3 30 department from approving more than \$1.5 million in tax credit
3 31 certificates for transfer from any one eligible business that
3 32 is a biodiesel project in a calendar year. The bill provides
3 33 that if \$3 million in tax credit certificates for transfer
3 34 have not been issued at the end of a calendar year, the
3 35 remaining tax credit certificates for transfer may be issued
4 1 in advance to an eligible business scheduled to receive a tax
4 2 credit certificate for transfer in a later calendar year. The
4 3 bill provides that any time the department approves a tax
4 4 credit certificate for transfer which has not been allocated
4 5 at the end of a calendar year, the department may prorate the
4 6 remaining certificates to more than one eligible applicant.
4 7 The bill provides that, if the entire \$3 million of tax credit
4 8 certificates for transfer is not issued in a given calendar
4 9 year, the remaining amount may be carried over to a succeeding
4 10 calendar year. The bill allows tax credit certificates to be
4 11 transferred to any person or entity. The bill requires the
4 12 department of economic development to notify the department of
4 13 revenue of the tax credit certificates which have been
4 14 approved for transfer. The bill provides requirements for the
4 15 reissuance of tax credit certificates after a transfer and for
4 16 the claiming of a tax credit after a transfer has occurred.
4 17 The bill prohibits any consideration received or paid for the
4 18 transfer of the tax credit from being included as income or
4 19 from being deducted from income.
4 20 LSB 2326XS 82
4 21 tm:rj/gg/14